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6
7 **BEFORE THE**
BOARD OF REGISTERED NURSING
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2010-643**

11 **EDWARD LEE BARRAZA**
12 **357 Collingwood #2**
San Francisco, California 94114

A C C U S A T I O N

13 **Registered Nurse License No. 524389**

14 **Respondent.**

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs.

20 2. On or about July 29, 1996, the Board of Registered Nursing issued Registered Nurse
21 License Number 524389 to Edward Lee Barraza (Respondent). The Registered Nurse License
22 was in full force and effect at all times relevant to the charges brought herein and will expire on
23 May 31, 2012, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 . . .
9 8. Section 490 of the Business and Professions Code provides, in pertinent part, that a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime substantially related to the qualifications, functions, or duties of the business or profession
12 for which the license was issued.

13 9. California Code of Regulations, title 16, section 1444 provides, in pertinent part, that
14 a conviction or act shall be considered to be substantially related to the qualifications, functions
15 or duties of a registered nurse if to a substantial degree it evidences the present or potential
16 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
17 welfare.

18 10. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
19 the Board may request the administrative law judge to direct a licensee found to have committed
20 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
21 investigation and enforcement of the case.

22 FIRST CAUSE FOR DISCIPLINE

23 (Conviction of a Crime)

24 11. Respondent is subject to disciplinary action under Business and Professions Code
25 sections 490 and 2761(f) in that respondent was convicted of a crime substantially related to the
26 qualifications, functions or duties of a registered nurse, the circumstances are as follows:

27 a. On or about September 30, 2009, in a criminal proceeding entitled People of the State
28 of California v. Edward L. Barraza in San Francisco County Superior Court, Case No. 2429019,

1 the respondent was convicted by his plea of nolo contendere for violating Vehicle Code section
2 23152(b) (driving under the influence with a blood alcohol content of 0.08 or less), a
3 misdemeanor.

4 b. The circumstances surrounding the conviction are that on or about July 26, 2009, at
5 1952 hours San Francisco Police officers were dispatched to the area of Castro and Market Streets
6 to investigate a non-injury collision. Upon making contact with the respondent, one of the officers
7 noticed that the respondent's eyes were watery and bloodshot. The officer smelled the strong odor
8 of an alcoholic beverage as he spoke to the respondent. In response to a question whether or not
9 he had consumed alcoholic beverages, the respondent replied Vodka. The respondent refused to
10 answer interview questions and he refused to participate in any field sobriety tests. Based on the
11 officer's observations of the respondent, the officer determined that respondent was driving while
12 under the influence of alcohol and placed him under arrest.

13 c. On or about July 28, 2009, the results of a certified Report of Forensic Alcohol
14 Analysis, prepared by the Forensic Laboratory Division of the Office of the Chief Medical
15 Examiner of the City and County of San Francisco, reported that a blood specimen collected from
16 the respondent on July 26, 2009 at 2053 hours was analyzed and it was found to contain a blood
17 ethanol level of 0.24%.

18 d. On or about September 30, 2009, the court placed respondent on court probation for
19 three years; ordered him to serve 15 days in the county jail, with a one day credit for time served,
20 and ordered him to pay fines in the amount of \$1,482.00. The court also ordered the respondent to
21 enroll and complete a nine month First Offenders Program.

22 SECOND CAUSE FOR DISCIPLINE

23 (Use of an Alcoholic Beverages to an Extent or in a
24 Manner Dangerous or Injurious to Himself or Others)

25 12. Respondent is subject to disciplinary action under Business and Professions Code
26 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
27 Code section 2762(b) in that on or about July 26, 2009, respondent used alcoholic beverages to an
28 extent or in a manner dangerous or injurious to himself or others, as referenced in paragraph 11,
above.

1 THIRD CAUSE FOR DISCIPLINE

2 (Conviction of an Alcohol Related Crime)

3 13. Respondent is subject to disciplinary action under Business and Professions Code
4 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
5 Code section 2762(c) in that respondent was convicted of a crime involving the consumption of
6 alcoholic beverages, as referenced in paragraph 11, above.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 524389, issued to Edward
11 Lee Barraza.

12 2. Ordering Edward Lee Barraza to pay the Board of Registered Nursing the reasonable
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions
14 Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.
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17

18 DATED: 6/17/10

19 *Louise R. Bailey*
20 LOUISE R. BAILEY, M.ED., RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant
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